

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2091 OF 2005

Shree Jagannath Motiram Borse ... Petitioner

V/s

Malegaon Municipal Corporation ... Respondent

Mr. A.R. Shaikh i/by Mr. U.M. Joshi for the petitioner.

Mr. Amol B. Desai for the respondent.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 12TH JULY, 2007.

P.C.:

1. This petition challenges the order dated 25.8.2004 of the revisional Court passed on 25.8.2004 in Revision (ULP) No. 35 of 2004. By this order the revisional court had deleted para 4 of the operative order 15.7.2003 passed by the Labour Court in Complaint (ULP) No. 171 of 1994.

2. The complaint was filed by the petitioner complaining that the respondents had engaged in an unfair labour practice by terminating his services prior to his date of superannuation. According to the petitioner, his date of birth and age was wrongly

recorded by the respondents and he could have been permitted to continue in service for a longer period. The petitioner was superannuated on 31.5.1997 on the basis that his date of birth was 5.5.1939 as recorded with the respondent. The petitioner was superannuated while the complaint was pending and, therefore, the Labour Court held that he has been illegally superannuated w.e.f. 30.6.1994. The Labour Court further directed that the notice of superannuation dated 7.4.1994 should be withdrawn and the petitioner's correct date of birth should be entered in his service record. A further direction is given by the Labour Court that his retirement benefits should be paid within 30 days of the receipt of the order. It is this direction regarding the payment of retiral benefits which has been deleted by the revisional Court.

3. In my view, the revisional Court has erred in concluding that such a direction could not be given by the Labour Court. Under Sec. 32, of the M.R.T.U. & P.U.L.P. Act the Labour Court has the powers to decide all connected matters arising out of any application or complaint before it. The Labour Court has merely directed the payment of retiral benefits and thus there is no error which has been committed nor has he overstepped the jurisdiction vested in him. The

revisional Court, acting under Section 44 of the Act was in error in setting aside the direction given by the Labour Court.

4. Mr. Desai appearing for the respondents vehemently opposed the petition and submitted that such a direction could not be granted by the Labour Court and the Industrial Court has not committed any error of law while passing the order. In my opinion, this submission cannot be accepted for the aforesaid reasons.

5. Petition allowed.

6. Rule made absolute in terms of prayer clause (a),

7. It is expected that the respondent will pay the retiral dues of the petitioner who has retired in 1997, as expeditiously as possible and in any case within eight weeks from the date of this order.

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